

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

BENJAMIN MAJOR, M. D.)
Certificate No. C-14928)

No. 03-92-21080

Respondent.)
_____)

DECISION

The attached Stipulation and Waiver is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on May 27, 1995.

IT IS OR ORDERED April 27, 1995

By: Karen McCelliott
KAREN MCELLIOTT
President
Division of Medical Quality

DANIEL E. LUNGREN, Attorney General
of the State of California
DAVID LEW
Deputy Attorney General
455 Golden Gate Avenue, Suite 6200
San Francisco, California 94102-3658
Telephone: (415) 703-2248

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

No. 03-92-21080

BENJAMIN MAJOR, M.D.
7 Highland Boulevard
Kensington, California 94707

STIPULATION AND WAIVER

Physician and Surgeon
Certificate No. C14928

Respondent.

IT IS HEREBY STIPULATED by and between Benjamin Major,
M.D., (hereinafter, "respondent"), and Dixon Arnett, as Executive
Director of the Medical Board of California, Department of
Consumer Affairs, by and through his attorney, David Lew, Deputy
Attorney General, that the following matters are true:

1. Dixon Arnett, the named complainant in Accusation
No. 03-92-21080, is the Executive Director of the Medical Board
of California (hereinafter, "Board") and brought said action
solely in his official capacity. Respondent's license history
and status as set forth in paragraph 2 of the Accusation is true
and correct.

1 2. Respondent is represented by Carl B. Metoyer, Esq.,
2 Attorney at Law. Respondent has retained the above-named
3 attorney as his attorney in regard to the administrative action
4 herein and respondent has counseled with said attorney concerning
5 the effects of this stipulation, which respondent has carefully
6 read and which he fully understands.

7 3. Respondent has received and read Accusation No. 03-
8 92-21080, which is presently on file and pending against him
9 before the Division of Medical Quality (hereinafter, "Division")
10 of the Board, said accusation having been filed on or about
11 December 14, 1994. (A copy of Accusation No. 03-92-21080 is
12 attached hereto as Exhibit A.)

13 4. Respondent understands the nature of the charges
14 alleged in the above-mentioned accusation and that said charges
15 and allegations would constitute cause for imposing discipline
16 upon respondent's physician and surgeon's certificate heretofore
17 issued by the Board.

18 5. Respondent and his attorney are aware of each of
19 respondent's rights, including the right to a hearing on the
20 charges and allegations; respondent's right to confront and
21 cross-examine witnesses who would testify against him;
22 respondent's right to present evidence in his favor or to call
23 witnesses in his behalf, or to so testify himself; respondent's
24 right to contest the charges and allegations and any other rights
25 which may be accorded him pursuant to the California
26 Administrative Procedure Act (Govt. Code, § 11500 et seq.);
27 respondent's right to reconsideration, appeal to superior court

1 and to any other or further appeal; respondent understands that
2 in signing this stipulation rather than contesting the
3 accusation, he is enabling the Division to impose disciplinary
4 action upon his license without further process.

5 6. Respondent hereby freely and voluntarily waives his
6 right to a hearing on the charges and allegations contained in
7 Accusation No. 03-92-21080 in order to enter into this
8 stipulation, and he further agrees to waive his right to
9 reconsideration, judicial review, and any and all rights which
10 may be accorded him by the California Administrative Procedure
11 Act and other laws of the State of California.

12 7. This stipulation constitutes an offer in settlement
13 to the Board and is not effective until adoption by the Board.

14 8. In the event that this stipulation is not adopted
15 by the Board, nothing recited herein shall be construed as a
16 waiver of respondent's right to a hearing or as an admission of
17 the truth of any of the matters charged in the accusation.

18 9. All admissions of facts and conclusions of law
19 contained in this stipulation are made exclusively for this
20 proceeding and any future proceedings between the Board and
21 respondent shall not be deemed to be admissions for any purpose
22 in any other administrative, civil, or criminal action, forum, or
23 proceeding.

24 10. For purposes of this action, respondent admits the
25 allegations of the First, Fifth, and Sixth Causes for
26 Disciplinary Action. Based upon these admissions, respondent
27 agrees and stipulates that cause for disciplinary action exists

1 therein against his certificate to practice medicine pursuant to
2 Business and Professions Code section 2234.

3 11. Based upon all of the foregoing admissions,
4 stipulations, and recitals, it is stipulated and agreed that the
5 Division may issue a decision upon this stipulation whereby:

6 Physician and surgeon certificate number C14928
7 heretofore issued to respondent, Benjamin Major, M.D.,
8 is hereby suspended for a period of three (3) years.
9 However, suspension is stayed and respondent is placed
10 on probation for a period of three (3) years on the
11 terms and conditions specified below. Within 15 days
12 after the effective date of this decision respondent
13 shall provide the Division, or its designee, proof of
14 service that respondent has served a true copy of this
15 decision on the Chief of Staff or the Chief Executive
16 Officer at every hospital (1) where privileges or
17 membership are extended or (2) where respondent is
18 employed to practice medicine, and on the Chief
19 Executive Officer at every insurance carrier where
20 malpractice insurance coverage is extended.

21 **(A) COMMUNITY SERVICE -- FREE SERVICES**

22 Within 60 days of the effective date of this
23 decision, respondent shall submit to the Division for
24 its prior approval a community service program in which
25 respondent shall provide free medical or nonmedical
26 services on a regular basis to a community or
27 charitable facility or agency for at least 250 hours

1 within the first 24 months of probation.

2 (B) ETHICS COURSE

3 Within 60 days of the effective date of this
4 decision, respondent shall enroll in a course in Ethics
5 approved in advance by the Division or its designee,
6 and shall successfully complete the course during the
7 first year of probation.

8 (C) COOPERATION WITH MEDICAL BOARD INVESTIGATION

9 Respondent shall agree to fully cooperate with and
10 make himself available to the Board and its designees,
11 including the Office of the Attorney General, in any
12 investigation of Paxton Beale, King Medical Center,
13 Pregnancy Consultation Center, or BackPax Medical
14 Center, or any other enterprise controlled by Paxton
15 Beale, including but not limited to the providing of
16 any documents or other types of information requested,
17 and shall truthfully and accurately testify at any
18 subsequent administrative, civil, or criminal
19 proceeding if asked to do so by the Board.

20 STANDARD TERMS OF PROBATION

21 (D) OBEY ALL LAWS

22 Respondent shall obey all federal, state and local
23 laws, and all rules governing the practice of medicine
24 in California and remain in full compliance with any
25 court-ordered criminal probation, payments or other
26 orders.

27 //

1 **(E) QUARTERLY REPORTS**

2 Respondent shall submit quarterly declarations
3 under penalty of perjury on forms provided by the
4 Division, stating whether there has been compliance
5 with all of the conditions of probation.

6 **(F) PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

7 Respondent shall comply with the Division's
8 probation surveillance program. Respondent shall, at
9 all times, keep the Division informed of his addresses
10 of business and residence which shall both serve as
11 addresses of record. Changes of such addresses shall
12 be immediately communicated in writing to the Division.
13 Under no circumstances shall a post office box serve as
14 an address of record.

15 Respondent shall also immediately inform the
16 Division, in writing, of any travel to any areas
17 outside the jurisdiction of California which lasts, or
18 is contemplated to last, more than 30 days.

19 **(G) INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
20 **DESIGNATED PHYSICIAN(S)**

21 Respondent shall appear in person for interviews
22 with the Division, its designee or its designated
23 physician(s) upon request at various intervals and with
24 reasonable notice.

25 **(H) TOLLING OF PROBATION**

26 The period of probation shall not run during the
27 time respondent is practicing outside the jurisdiction

1 of California. For the purposes of this order, all
2 time spent in an intensive training program approved by
3 the Division or its designee shall be considered as
4 time spent in practice. If, during probation,
5 respondent practices out of the jurisdiction of
6 California, respondent is required to immediately
7 notify the probation monitor in writing of the date
8 that respondent's practice is out of state, and the
9 date of return, if any.

10 **(I) COMPLETION OF PROBATION**

11 Upon successful completion of probation,
12 respondent's certificate shall be fully restored.

13 **(J) VIOLATION OF PROBATION**

14 If respondent violates probation in any respect,
15 the Division, after giving respondent notice and the
16 opportunity to be heard, may revoke probation and carry
17 out the disciplinary order that was stayed. If an
18 accusation or petition to revoke probation is filed
19 against respondent during probation, the Division shall
20 have continuing jurisdiction until the matter is final,
21 and the period of probation shall be extended until the
22 matter is final.

23 **(K) COST RECOVERY**

24 Respondent is hereby ordered to reimburse the
25 Division the amount of \$3,000 within 90 days from the
26 effective date of this decision for its investigative
27 costs. Failure to reimburse the Division's cost of its

1 investigation shall constitute a violation of the
2 probation order, unless the Division agrees in writing
3 to payment by an installment plan because of financial
4 hardship. The filing of bankruptcy of respondent shall
5 not relieve respondent of his responsibility to
6 reimburse the Division for its investigative costs.

7 12. IT IS FURTHER STIPULATED AND AGREED that the terms
8 set forth herein shall be null and void, and in no way binding
9 upon the parties hereto, unless and until accepted by the Board.

10
11 DATED: April 5, 1995

DANIEL E. LUNGREN
Attorney General of the
State of California

13
14 David Lew
15 DAVID LEW
16 Deputy Attorney General

Attorneys for Complainant

17
18
19 DATED: 3-23-1995

20 Carl B. Metoyer
21 CARL B. METOYER, ESQ.
22 Attorney for Respondent

23 DATED: 3-23-95

24 Benjamin Major
25 BENJAMIN MAJOR, M.D.
26 Respondent
27

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 DAVID LEW
Deputy Attorney General
3 455 Golden Gate Avenue, Suite 6200
San Francisco, California 94102-3658
4 Telephone: (415) 703-2248

5 Attorneys for Complainant

6
7 BEFORE THE
8 DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation)	No. 03-92-21080
Against:)	
11 BENJAMIN MAJOR, M.D.)	<u>ACCUSATION</u>
12 7 Highland Boulevard)	
13 Kensington, California 94707)	
Physician and Surgeon)	
14 Certificate No. C14928)	
15 Respondent.)	

16
17 DIXON ARNETT, complainant herein, charges and alleges
18 as follows:

- 19 1. Complainant is the Executive Director of the
20 Medical Board of the State of California (hereinafter, "Board")
21 and makes these charges and allegations solely in his official
22 capacity.
- 23 2. On or about July 7, 1953, the Board issued to
24 respondent, Benjamin Major, M.D. (hereinafter, "respondent"),
25 Physician and Surgeon Certificate number C14928. The certificate
26 is current and has an expiration date of September 30, 1996. No
27 Board record exists of any prior disciplinary action having been

1 taken against respondent by the State of California. Respondent
2 is a supervisor of a physician assistant. His Physician
3 Assistant Supervisor License number SA 15940 is current and has
4 an expiration date of February 29, 1996.

5 STATUTORY AUTHORITY

6 3. Section 2001 of the Business and Professions Code^{1/}
7 provides for the existence of the Board.

8 4. Section 2003 provides for the existence of the
9 Division of Medical Quality (hereinafter, "Division") within the
10 Board.

11 5. Section 2004 provides, in pertinent part, that the
12 Division is responsible for the administration and hearing of
13 disciplinary actions involving enforcement of the Medical
14 Practice Act (§ 2000 et seq.) and the carrying out of
15 disciplinary action appropriate to findings made by a medical
16 quality review committee, the Division, or an administrative law
17 judge.

18 6. Section 2220 provides, in pertinent part, that
19 except as otherwise provided by law, the Division may take action
20 against all persons guilty of violating the provisions of the
21 Medical Practice Act (§ 2000 et seq.). The Division shall
22 enforce and administer the Medical Practice Act as to physician
23 and surgeon certificate holders, and its powers include, but are
24 not limited to, investigating complaints from the public, from
25 other licensees, or from health care facilities, that a physician
26

27 1. All references are to the Business and Professions
Code unless otherwise specified.

1 and surgeon may be guilty of unprofessional conduct.

2 7. Section 2227 provides, in part, that the Board
3 shall take disciplinary action against a licensee charged with
4 and found guilty of unprofessional conduct.

5 8. Section 650 provides, in relevant part, as follows:

6 "Except as provided in Chapter 2.3 (commencing
7 with Section 1400) of Division 2 of the Health and
8 Safety Code, the offer, delivery, receipt, or
9 acceptance by any person licensed under this division
10 of any rebate, refund, commission, preference,
11 patronage dividend, discount, or other consideration,
12 whether in the form of money or otherwise, as
13 compensation or inducement for referring patients,
14 clients, or customers to any person, irrespective of
15 any membership, proprietary interest or co-ownership in
16 or with any person to whom these patients, clients or
17 customers are referred is unlawful."

13 9. Section 2234 provides, in relevant part, as
14 follows:

15 "The Division of Medical Quality shall take action
16 against any licensee who is charged with unprofessional
17 conduct. In addition to other provisions of this
18 article, unprofessional conduct includes, but is not
19 limited to, the following:

20 "(a) Violating or attempting to violate, directly
21 or indirectly, or assisting in or abetting the
22 violation of, or conspiring to violate, any provision
23 of this chapter.

24 ".....

25 "(e) The commission of any act involving
26 dishonesty or corruption which is substantially related
27 to the qualifications, functions, or duties of a
physician and surgeon."

28 10. Section 2238 provides that the violation of any
29 federal statute or regulation or any state statute or regulation
30 which regulates dangerous drugs or controlled substances
31 constitutes unprofessional conduct.

1 11. Section 2261 provides that the making or signing
2 of any certificate or other document directly or indirectly
3 related to the practice of medicine which falsely represents the
4 existence or nonexistence of a state of facts constitutes
5 unprofessional conduct.

6 12. Section 2263 provides that any willful,
7 unauthorized violation of professional confidence shall
8 constitute unprofessional conduct.

9 13. Section 2273 provides that the employment of
10 runners, cappers, steerers, or other persons to procure patients
11 constitutes unprofessional conduct.

12 14. Section 2285 provides, in relevant part, as
13 follows:

14 "The use of any fictitious, false, or assumed
15 name, or any name other than his or her own by a
16 licensee either alone, in conjunction with a
17 partnership or group, or as the name of a professional
18 corporation, in any public communication,
advertisement, sign, or announcement of his or her
practice without a fictitious-name permit obtained
pursuant to Section 2415 constitutes unprofessional
conduct."

19 15. Section 2286 provides as follows:

20 "It shall constitute unprofessional conduct for
21 any licensee to violate, to attempt to violate,
22 directly or indirectly, to assist in or abet the
violation of, or to conspire to violate any provision
or term of Article 18 (commencing with Section 2400),
23 of the Moscone-Knox Professional Corporation Act (Part
4 (commencing with Section 13400) of Division 3 of
24 Title 1 of the Corporations Code), or of any rules and
regulations adopted under those laws."

25 16. Section 2415, subdivision (a), provides that any
26 physician and surgeon who wishes to practice under a false or
27 fictitious name may do so if a fictitious-name permit issued by

1 the Division of Licensing is obtained and maintained in current
2 status under the provisions of this section.

3 17. Section 2415, subdivision (b)(2), provides that
4 the Division or Board shall issue a fictitious-name permit if the
5 professional practice of the applicant or applicants is wholly
6 owned and entirely controlled by the applicant or applicants.

7 18. Section 17200 provides as follows:

8 "As used in this chapter, unfair competition shall
9 mean and include any unlawful, unfair or fraudulent
10 business act or practice and unfair, deceptive, untrue
11 or misleading advertising and any act prohibited by
12 Chapter 1 (commencing with Section 17500) of Part 3 of
13 Division 7 of the Business and Professions Code."

14 OTHER STATUTES

15 19. Health and Safety Code section 11190 provides as
16 follows:

17 "Every practitioner, other than a pharmacist, who
18 issues a prescription, or dispenses or administers a
19 controlled substance classified in Schedule II shall
20 make a record that, as to the transaction, shows all of
21 the following:

22 "(a) The name and address of the patient.

23 "(b) The date.

24 "(c) The character, including the name and
25 strength, and quantity of controlled substances
26 involved.

27 "The prescriber's record shall show the pathology
and purpose for which the prescription is issued, or
the controlled substance administered, prescribed, or
dispensed."

28 20. Health and Safety Code section 11192 provides that
29 in a prosecution for a violation of Section 11190, proof that a
30 defendant received or possessed a greater or lesser amount of

1 controlled substances than is accounted for by any record
2 required by law is prima facie evidence of a violation of Section
3 11190.

4 DRUGS

5 21. Fentanyl is a dangerous drug, as defined in
6 section 4211 of the Code, and a Schedule II controlled substance
7 and narcotic, as defined by section 11055, subdivision (c)(8), of
8 the Health and Safety Code.

9 FIRST CAUSE FOR DISCIPLINARY ACTION

10 22. Respondent's conduct, as alleged in this
11 Accusation, occurred while he was a licensed physician and
12 surgeon practicing in Oakland and Sacramento, California.

13 23. Respondent, a physician performing abortion
14 procedures, entered into a "Core Doctor Management Agreement,"
15 effective February 3, 1982, with King Health Corporation, an
16 unlicensed management corporation. Under the terms of the
17 agreement, King Health Corporation was to provide management
18 services to respondent's medical practice, which respondent would
19 conduct at abortion clinics under the following fictitious names:
20 "PCC (Pregnancy Consultation Center) Medical Clinic of Oakland,"
21 "PCC Medical Clinic of San Francisco," and "other names for other
22 locations which may be obtained from time to time to render
23 services under this agreement."

24 24. Toward this end, commencing in 1983, respondent
25 submitted to the Board, on behalf of himself and other named
26 physicians pursuant to Business and Professions Code section
27 2415, a number of applications for permits to operate medical

1 clinics under the fictitious name of "Pregnancy Consultation
2 Center" at various locations in Northern California, as follows:

3 a. On or about July 12, 1983, respondent submitted to
4 the Board an application to conduct a medical practice under the
5 name of "Pregnancy Consultation Center-Medical Clinic of
6 Sacramento" at 616 Alhambra Blvd., Suite 4-5, Sacramento,
7 California 95816.

8 b. On or about October 17, 1984, respondent submitted
9 to the Board an application to conduct a medical practice under
10 the name of "Pregnancy Consultation Center-Medical Clinic of
11 Fremont" at 39150 State Street, Fremont, California 94538.

12 c. On or about December 20, 1984, respondent submitted
13 to the Board an application to conduct a medical practice under
14 the name of "Pregnancy Consultation Center Medical Clinic of
15 Contra Costa" at 1901 Olympic Blvd., # 205, Walnut Creek,
16 California 94596.

17 d. On or about November 17, 1985, respondent submitted
18 to the Board an application to conduct a medical practice under
19 the name of "Pregnancy Consultation Center Medical Clinic of
20 Pleasant Hill" at 1936B Contra Costa Blvd., Pleasant Hill,
21 California.

22 25. On the application for permit to conduct a medical
23 practice under the fictitious name of "Pregnancy Consultation
24 Center-Medical Clinic of Sacramento", respondent falsely
25 declared, under penalty of perjury, that he and the other named
26 physicians "wholly owned and entirely controlled" the medical
27 practice at that location.

1 26. In addition to the above-named applications for
2 fictitious name permits, respondent filed a number of renewal
3 applications for fictitious name permits for the following
4 Pregnancy Consultation Center facilities:

5 a. Pregnancy Consultation Center/Medical Clinic of
6 Sacramento (on or about January 29, 1986 and March 8, 1988);

7 b. Pregnancy Consultation Center/Medical Clinic of
8 Pleasant Hill (on or about March 15, 1986 and March 11, 1988);

9 c. Pregnancy Consultation Center/Medical Clinic of
10 Fremont (on or about March 15, 1986 and March 11, 1988).

11 27. On each of the above-named renewal applications
12 for a fictitious name permit, respondent falsely declared, under
13 penalty of perjury, that he and the other physician-applicants
14 "wholly owned and entirely controlled" the medical practice at
15 the specified location.

16 28. In fact, all of the Pregnancy Consultation Center
17 facilities were wholly owned by Paxton Beale, who was not
18 licensed by any of the health profession boards within the State
19 of California. Beale exercised total control over every aspect
20 of all of the Pregnancy Consultation Center facilities.

21 29. Under respondent's arrangement with Paxton Beale,
22 King Health Corporation management service staff and employees
23 were responsible for advertising and soliciting patients,
24 counseling and screening patients, referring patients for
25 abortion procedures to those physicians, including respondent,
26 who had entered into business arrangements with Beale, and
27 billing patients. King Health Corporation also provided surgical

1 staff and equipment.

2 30. Respondent performed abortion procedures at the
3 Pregnancy Consultation Center facility in Sacramento. Respondent
4 was paid a portion of the total of the surgical fee charged for
5 each abortion by Pregnancy Consultation Center. The remaining
6 fee was retained by King Health Corporation.

7 31. All of the medical records of patients whom
8 respondent treated at a Pregnancy Consultation Center facility
9 were maintained at the facility location. Under the Core Doctor
10 Management Agreement, respondent agreed that, in the event of
11 termination of the Agreement, all medical records would remain at
12 the Pregnancy Consultation Center facility, which Paxton Beale
13 owned and controlled.

14 32. Respondent permitted King Health Corporation
15 management service staff to order and pay for controlled
16 substances using respondent's DEA (Drug Enforcement
17 Administration) registration number for the Pregnancy
18 Consultation Center facility in Sacramento.

19 33. Respondent permitted management staff to exercise
20 control over the storage of controlled substances ordered under
21 his name and to maintain all drug accounting and dispensing
22 records.

23 34. On or about May 24, 1993, Board Investigator
24 Gerald McClellan sent respondent a certified letter requesting
25 all records of purchase, storage, and disposition of Schedule II
26 controlled substance at those locations where respondent was
27 registered through the Drug Enforcement Administration.

1 35. On or about June 18, 1993, respondent produced
2 drug dispensing records from 1990 through May 1993 for
3 Investigator McClellan. The records show that respondent's DEA
4 number for the Pregnancy Consultation Center facility in
5 Sacramento had been regularly used to purchase quantities of
6 Fentanyl, a controlled substance. The records reveal frequent
7 daily drug computation errors, such that inventory records were
8 consistently incorrect and quantities of Fentanyl were left
9 unaccounted.

10 36. The drug records provided by respondent regarding
11 the administration of Fentanyl to respondent's patients fail to
12 include the amount of Fentanyl administered, the pathology for
13 which Fentanyl was being administered, or the address of the
14 patient to whom Fentanyl was administered. The records also
15 indicate that patients of respondent had received injections of
16 Fentanyl from supplies which had not been ordered under
17 respondent's DEA number.

18 37. Respondent's actions, as outlined in paragraphs 22
19 through 36, constitute a violation of Section 650, in that
20 respondent engaged in the unlawful referral of patients. As a
21 result, respondent's Physician and Surgeon Certificate No.
22 C14928 is subject to discipline under Section 2234,
23 subdivision (e).

24 SECOND CAUSE FOR DISCIPLINARY ACTION

25 38. The allegations contained in the First Cause for
26 Disciplinary Action are incorporated by reference herein.

27 //

1 39. Respondent's actions, as outlined in paragraphs 22
2 through 36, constitute a violation of Section 2238, in that
3 respondent violated state and federal statutes and/or regulations
4 pertaining to dangerous drugs by dispensing drugs without a
5 proper accounting and a sufficient recording of patient
6 information, in violation of Health and Safety Code section
7 11190. As a result, respondent's Physician and Surgeon
8 Certificate No. C14928 is subject to discipline under Section
9 2238 and Section 2234, subdivision (a).

10 THIRD CAUSE FOR DISCIPLINARY ACTION

11 40. The allegations contained in the First and Second
12 Causes for Disciplinary Action are incorporated by reference
13 herein.

14 41. Respondent's actions, as outlined in paragraphs 22
15 through 36, constitute a violation of Section 2261, in that
16 respondent obtained fictitious name permits from the Board
17 pursuant to Section 2415 by making false or misleading statements
18 including, but not limited to, representations that Pregnancy
19 Consultation Center facilities was "wholly owned and entirely
20 controlled" by respondent. As a result, respondent's Physician
21 and Surgeon Certificate No. C14928 is subject to discipline under
22 Section 2261 and Section 2234, subdivisions (a) and (e).

23 FOURTH CAUSE FOR DISCIPLINARY ACTION

24 42. The allegations contained in the First, Second,
25 and Third Causes for Disciplinary Action are incorporated by
26 reference herein.

27 //

1 43. Respondent's actions, as outlined in paragraphs 22
2 through 36, constitute a violation of Section 2273, in that
3 respondent contracted to use runners, cappers, steerers, or other
4 persons to procure patients for his medical practice. As a
5 result, respondent's Physician and Surgeon Certificate No.
6 C14928 is subject to discipline under Section 2273 and Section
7 2234, subdivision (a).

8 FIFTH CAUSE FOR DISCIPLINARY ACTION

9 44. The allegations contained in the First, Second,
10 Third, and Fourth Causes for Disciplinary Action are incorporated
11 by reference herein.

12 45. Respondent's actions, as outlined in paragraphs 22
13 through 36, constitute a violation of Section 2285, in that
14 fictitious name permits issued to respondent by the Board were
15 based upon applications which falsely represented that the
16 Pregnancy Consultation Center facilities were "wholly owned and
17 entirely controlled" by respondent and the other physician-
18 applicants, and thus were not obtained pursuant to Section 2415.
19 As a result, respondent's Physician and Surgeon Certificate No.
20 C14928 is subject to discipline under Section 2285 and Section
21 2234, subdivisions (a) and (e).

22 SIXTH CAUSE FOR DISCIPLINARY ACTION

23 46. The allegations contained in the First, Second,
24 Third, Fourth, and Fifth Causes for Disciplinary Action are
25 incorporated by reference herein.

26 47. Respondent's actions, as outlined in paragraphs 22
27 through 36, constitute a violation of Section 2286, in that

1 respondent aided and abetted the unlicensed practice of medicine
2 within the meaning of that section. As a result, respondent's
3 Physician and Surgeon Certificate No. C14928 is subject to
4 discipline under Section 2234, subdivision (a).

5 SEVENTH CAUSE FOR DISCIPLINARY ACTION

6 48. The allegations contained in the First, Second,
7 Third, Fourth, Fifth, and Sixth Causes for Disciplinary Action
8 are incorporated by reference herein.

9 49. Respondent's actions, as outlined in paragraphs 22
10 through 36, constitute a violation of Section 17200, in that
11 respondent engaged in unfair business competition within the
12 meaning of that section. As a result, respondent's Physician and
13 Surgeon's Certificate No. C14928 is subject to discipline under
14 Section 2234, subdivision (e).

15 COST RECOVERY

16 50. Business and Professions Code section 125.3
17 provides, in pertinent part, that in any order issued in
18 resolution of a disciplinary proceeding before any board within
19 the California Department of Consumer Affairs, the board may
20 request the administrative law judge to direct a licensee found
21 to have committed a violation/violations of the licensing act to
22 pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

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25 //

26 //

27 //

PRAYER


WHEREFORE, complainant prays that the Board hold a hearing on the matters alleged herein, and following said hearing, issue a decision:

1. Suspending or revoking Physician and Surgeon Certificate No. C14928 and Physician Assistant Supervisor License No. SA 15940 issued to Benjamin Major, M.D.;

2. Ordering the recovery for the Board of its investigative and prosecutorial costs associated with this case according to proof; and

3. Taking such other and further action as the Board deems necessary and proper.

DATED: December 14, 1994.



DIXON ARNETT
Executive Director
Medical Board of California

Complainant